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LEXISNEXIS SCREENING SOLUTIONS INC.
7

8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
11 MONTY N. CAZIER, for himself and on behalf
of all similarly situated individuals,

12 Plaintiffs,

13 v.

14 LEXISNEXIS SCREENING SOLUTIONS, INC.,
15 formerly known as CHOICEPOINT'S
16 WORKPLACE SOLUTIONS, INC., a
corporation; and DOES 1 through 50, inclusive,

17 Defendants.

18 Case No. 10 CV 1531 MMA JMA

19 **CLASS ACTION**

20 **ANSWER TO COMPLAINT**

21 Complaint Filed: July 22, 2010

1 Pursuant to Rule 12(a) of the Federal Rules of Civil Procedure, defendant LexisNexis
 2 Screening Solutions Inc. (“L NSS”) responds to plaintiff Monty N. Cazier’s complaint, filed July
 3 22, 2010, as follows.

4 **INTRODUCTION**

5 1. In response to paragraph 1, L NSS admits that plaintiff purports to bring this action
 6 under the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.* (“FCRA”). L NSS admits that it
 7 operates as a consumer reporting agency under the FCRA. L NSS admits that in or about July
 8 2008, it prepared and sold a criminal background screening report regarding plaintiff to HD
 9 Supply Facilities Maintenance, Ltd. (“HDSFM”). L NSS lacks sufficient knowledge or
 10 information to form a belief as to the truth of the allegations regarding the employment decision
 11 made by HDSFM with respect to plaintiff or any employment decision made by other employers
 12 to whom L NSS sold a criminal background screening report and denies the allegations on that
 13 basis. To the extent paragraph 1 states legal conclusions, no response thereto is necessary.
 14 Except as expressly admitted, L NSS denies the allegations in paragraph 1.

15 2. In response to paragraph 2, L NSS admits that plaintiff purports to bring a class
 16 action under the FCRA. L NSS denies that it violated the FCRA with respect to plaintiff or any
 17 other person. To the extent paragraph 2 states legal conclusions, no response thereto is necessary.
 18 Except as expressly admitted, L NSS denies the allegations in paragraph 2.

19 **JURISDICTION AND VENUE**

20 3. L NSS admits the allegations in paragraph 3.

21 4. L NSS admits that it regularly does business in this District and that in or about
 22 July 2008, it furnished to HDSFM a criminal background screening report regarding plaintiff.
 23 Except as expressly admitted, L NSS denies the allegations in paragraph 4.

24 **PARTIES**

25 5. L NSS states that since paragraph 5 states only legal conclusions, no response
 26 thereto is necessary.

27 6. L NSS denies the allegations in paragraph 6.

FACTS

7. LNSS admits that it prepares and sells criminal background screening reports at the request of customers such as prospective employers. LNSS admits that in or about July 2008, it prepared and sold to HDSFM a criminal background screening report regarding plaintiff. Except as expressly admitted, LNSS denies the allegations in paragraph 7.

8. LNSS admits that in the two years prior to the filing of this action, it has operated as a consumer reporting agency within the meaning of the FCRA. Except as expressly admitted, LNSS denies the allegations in paragraph 8.

9. LNSS admits that, in preparing and selling criminal background screening reports to employers, it operates as a consumer reporting agency under the FCRA. Except as expressly admitted, LNSS denies the allegations in paragraph 9.

10. LNSS admits that the address it has been provided as HDSFM's mailing address for criminal background screening reports is in San Diego, California. Except as expressly admitted, LNSS denies the allegations in paragraph 10.

11. LNSS states that since paragraph 11 states only legal conclusions, no response thereto is necessary.

12. LNSS lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 12 and denies the allegations on that basis.

13. LNSS admits that on July 24, 2008, HDSFM ordered a criminal background screening report regarding a “Monty Noel Cazier” with an address in New Braunfels, Texas. Except as expressly admitted, LNSS denies the allegations in paragraph 13.

14. LNSS admits that, in response to HDSFM's July 24, 2008 request, LNSS returned to HDSFM a report showing that a "Monty Noel Cazier" had pled guilty in state court in Michigan to assault and battery and to resisting or obstructing a police officer. LNSS lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in paragraph 14 and on that basis denies them.

15. LNSS lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 15 and on that basis denies them.

1 16. LNSS lacks sufficient knowledge or information to form a belief as to the truth of
 2 the allegations in paragraph 16 and on that basis denies them.

3 17. In response to paragraph 17, LNSS admits that in or about July 2008, it did not
 4 provide plaintiff with a copy of the report that it provided to HDSFM, but denies that it was
 5 obligated under the FCRA to do so. LNSS lacks sufficient knowledge or information to form a
 6 belief as to the truth of the balance of the allegations in paragraph 17 and on that basis denies
 7 them.

8 18. In response to paragraph 18, LNSS admits that in or about July 2008, it did not
 9 provide plaintiff with a copy of the report that it provided to HDSFM, but denies that it was
 10 obligated under the FCRA to do so. Except as expressly admitted, LNSS denies the allegations in
 11 paragraph 18.

12 19. LNSS denies the allegations in paragraph 19.

13 20. LNSS admits that LexisNexis Risk Management Inc. was a named defendant in
 14 the *Williams* case. Except as expressly admitted, LNSS denies the allegations in paragraph 20.

15 21. LNSS admits that ChoicePoint Inc. and ChoicePoint WorkPlace Solutions Inc.
 16 were named defendants in the *Beverly* case. Except as expressly admitted, LNSS denies the
 17 allegations in paragraph 21.

18 22. LNSS states that since the class definition in the unrelated *Beverly* action
 19 described in paragraph 22 speaks for itself, no response thereto is necessary.

20 23. To the extent that paragraph 23 states legal conclusions, no response thereto is
 21 necessary. LNSS admits that it is aware of obligations imposed on it by the FCRA. Except as
 22 admitted, LNSS denies the allegations in paragraph 23.

23 24. To the extent that paragraph 24 states legal conclusions, no response thereto is
 24 necessary. LNSS admits that it has written materials regarding its duties under the FCRA.
 25 Except as admitted, LNSS denies the allegations in paragraph 24

26 25. To the extent that paragraph 25 states legal conclusions, no response thereto is
 27 necessary. LNSS denies that it violated the FCRA with respect to plaintiff or any other person.
 28 Except as expressly admitted, LNSS denies the allegations in paragraph 25.

1 26. To the extent that paragraph 26 states legal conclusions, no response thereto is
2 necessary. LNSS denies that it violated the FCRA with respect to plaintiff or any other person.
3 Except as expressly admitted, LNSS denies the allegations in paragraph 26.

4 27. To the extent that paragraph 27 states legal conclusions, no response thereto is
5 necessary. LNSS denies that it violated the FCRA with respect to plaintiff or any other person.
6 Except as expressly admitted, LNSS denies the allegations in paragraph 27.

CLASS ACTION ALLEGATIONS

8 28. In response to paragraph 28, LNSS admits that plaintiff purports to bring this
9 action as a class action. LNSS admits that plaintiff purports to define a class as stated in
10 paragraph 28. Except as expressly admitted, LNSS denies the allegations in paragraph 28.

11 29. In response to paragraph 29, LNSS admits that plaintiff purports to define two sub-
12 classes as stated in paragraph 29. Except as expressly admitted, LNSS denies the allegations in
13 paragraph 29.

14 || 30. LNSS denies the allegations in paragraph 30.

15 || 31. LNSS denies the allegations in paragraph 31.

16 || 32. LNSS denies the allegations in paragraph 32.

17 ||| 33. LNSS denies the allegations in paragraph 33.

18 || 34. LNSS denies the allegations in paragraph 34.

19 || 35. LNSS denies the allegations in paragraph 35.

COUNT ONE: VIOLATION OF THE FCRA § 1681k(a)(1)

21 36. In response to paragraph 36, LNSS realleges and incorporates by reference each
22 and every preceding paragraph of this answer as if fully set forth herein.

23 || 37. LNSS denies the allegations in paragraph 37.

24 || 38. LNSS denies the allegations in paragraph 38.

25 || 39. LNSS denies the allegations in paragraph 39.

TRIAL BY JURY

27 ||| LNSS admits that plaintiff seeks to try this case to a jury.

AFFIRMATIVE DEFENSES

Without admitting any of the allegations of the complaint and without admitting or acknowledging that LNSS bears any burden of proof as to any of them, LNSS asserts the following affirmative defense. LNSS intends to rely upon any additional defenses that become available or apparent during pretrial proceedings and discovery in this action and hereby reserves the right to further amend this answer in order to assert all such further defenses.

First Affirmative Defense

8 The complaint, and its purported claim, is barred because plaintiff lacks standing.

PRAAYER FOR RELIEF

10 || WHEREFORE, LNSS prays as follows:

- 11 (a) that plaintiff take nothing by way of his complaint;
12 (b) that judgment be rendered against plaintiff and in favor of LNSS;
13 (c) LNSS be awarded its fees and costs of suit; and
14 (d) for such other relief be awarded to LNSS that the Court deems appropriate.

16 || Dated: November 10, 2010

MORRISON & FOERSTER LLP

By: s/ James F. McCabe

James F. McCabe

Email: jmccabe@mofo.com

Attorneys for Defendant
LEXISNEXIS SCREENING
SOLUTIONS INC.

CERTIFICATE OF SERVICE

I certify that on this 10th day of November 2010, I electronically filed the foregoing
Answer to Complaint with the Clerk of the Court using the CM/ECF System, which will send a
notification of the filing to the following attorneys of record:

5 James R. Robertson, Esq.
6 McCoy, Turnage & Robertson, LLP
7 5469 Kearny Villa Road, Suite 206
San Diego, California 92123

8 Attorneys for Plaintiff Monty N. Cazier

s/ James F. McCabe
James F. McCabe